



## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-533-840]

#### **Certain Frozen Warmwater Shrimp from India: Notice of Court Decision Not in Harmony with the Final Results in the Antidumping Duty Administrative Review; Notice of Amended Final Results**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** On December 6, 2022, the U.S. Court of International Trade (CIT) issued its final judgment in *Z.A. Sea Foods Private Limited v. United States*, Consol. Court No. 21-00031, sustaining the Department of Commerce's (Commerce's) first remand results pertaining to the administrative review of the antidumping duty (AD) order on certain frozen warmwater shrimp (shrimp) from India covering the period February 1, 2018, through January 31, 2019. Commerce is notifying the public that the CIT's final judgment in this case is not in harmony with Commerce's final results in the administrative review and that Commerce is amending the final results with respect to the dumping margin assigned to Z A Sea Foods Pvt. Ltd. (ZA Sea Foods), B-One Business House Pvt. Ltd., Hari Marine Private Limited, Magnum Export, Megaa Moda Pvt. Ltd., Milsha Agro Exports Private Limited, Sea Foods Private Limited, Shimpo Exports Private Limited, Five Star Marine Exports Private Limited, HN Indigos Private Limited, RSA Marines, and Zeal Aqua Limited.

**DATES:** Applicable December 16, 2022.

**FOR FURTHER INFORMATION CONTACT:** Alice Maldonado, AD/CVD Operations Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-4682.

## SUPPLEMENTARY INFORMATION:

### Background

On December 29, 2020, Commerce published its final results in the 2018-2019 AD administrative review of shrimp from India.<sup>1</sup> Commerce calculated a weighted-average dumping margin of 3.06 percent for ZA Sea Foods and assigned a dumping margin of 3.06 percent to B-One Business House Pvt. Ltd., Hari Marine Private Limited, Magnum Export, Megaa Moda Pvt. Ltd., Milsha Agro Exports Private Limited, Sea Foods Private Limited, Shimpo Exports Private Limited, Five Star Marine Exports Private Limited, HN Indigos Private Limited, RSA Marines, and Zeal Aqua Limited (the other Indian shrimp respondents).<sup>2</sup>

ZA Sea Foods and the other Indian shrimp respondents appealed Commerce's *Final Results*. On April 19, 2022, the CIT remanded the *Final Results*, finding that Commerce's decision to reject ZA Sea Foods' third country sales and rely on constructed value (CV) for the calculation of normal value (NV) was not supported by substantial evidence.<sup>3</sup>

In its final remand redetermination, issued in July 2022, Commerce determined that there was insufficient record evidence to find that ZA Sea Foods' third country Vietnamese sales were unrepresentative and unsuitable for use in the calculation of NV and recalculated the weighted-average dumping margin for ZA Sea Foods by relying on ZA Sea Foods' third country Vietnamese sales during the period of review.<sup>4</sup> As a result, Commerce calculated a revised weighted-average dumping margin for ZA Sea Foods of 1.73 percent. Moreover, as a result of Commerce's recalculation of the weighted-average dumping margin for ZA Sea Foods, Commerce revised the review-specific average rate assigned to the other Indian shrimp respondents to 1.73 percent. The CIT sustained Commerce's Final Remand Results.<sup>5</sup>

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<sup>1</sup> See *Certain Frozen Warmwater Shrimp from India: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018-2019*, 85 FR 85580 (December 29, 2020) (*Final Results*).

<sup>2</sup> *Id.* at 85581.

<sup>3</sup> See *Z.A. Sea Foods Private Ltd. v. United States*, Slip Op. 22-36, Consol. Court No. 21-00031 (CIT 2022).

<sup>4</sup> See *Final Results of Redetermination Pursuant to Court Remand*, Consol. Court No. No. 21-00031, dated July 18, 2022 (*Final Remand Results*) at 1.

<sup>5</sup> See *Z.A. Sea Foods Private Limited et al v. United States*, Slip Op. 22-136, Consol. Court No. 21-00031 (CIT 2022).

## Timken Notice

In its decision in *Timken*,<sup>6</sup> as clarified by *Diamond Sawblades*,<sup>7</sup> the Court of Appeals for the Federal Circuit held that, pursuant to section 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of a court decision that is not “in harmony” with a Commerce determination and must suspend liquidation of entries pending a “conclusive” court decision.<sup>8</sup> The CIT’s December 6, 2022, judgment in this case constitutes a final decision of that court that is not in harmony with Commerce’s *Final Results*. This notice is published in fulfillment of the publication requirements of *Timken*.

## Amended Final Results

Because there is now a final court judgment, Commerce is amending its *Final Results* with respect to ZA Sea Foods and the other Indian shrimp respondents as follows:

<b>Exporter/Producer</b>	<b>Weighted-Average Dumping Margin (percent)</b>
Z.A. Sea Foods Pvt. Ltd.	1.73
B-One Business House Pvt. Ltd.	1.73
Hari Marine Private Limited	1.73
Magnum Export	1.73
Megaa Moda Pvt. Ltd.	1.73
Milsha Agro Exports Private Limited	1.73
Sea Foods Private Limited	1.73
Shimpo Exports Private Limited	1.73
Five Star Marine Exports Private Limited	1.73
HN Indigos Private Limited	1.73
RSA Marines	1.73
Zeal Aqua Limited	1.73

## Cash Deposit Requirements

Commerce will issue revised cash deposit instruction to U.S. Customs and Border Protection (CBP).

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<sup>6</sup> See *Timken Co. v. United States*, 893 F.2d 337, 341 (Fed. Cir. 1990) (*Timken*).

<sup>7</sup> See *Diamond Sawblades Mfrs. Coal. v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

<sup>8</sup> See sections 516A(c) and (e) of the Act.

Because Hari Marine Private Limited, HN Indigos Private Limited, Megaa Moda Pvt. Ltd., Milsha Agro Exports Private Limited, RSA Marines, Shimpo Exports Private Limited, and Zeal Aqua Limited have a superseding cash deposit rate, *i.e.*, there have been final results published in a subsequent administrative review, we will not issue revised cash deposit instructions to CBP for these those producers/exporters. This notice will not affect the current cash deposit rate for them. For all exporters/producers that do not have a superseding cash deposit rate, Commerce will issue revised cash deposit instructions to CBP.

#### Liquidation of Suspended Entries

At this time, Commerce remains enjoined by CIT order from liquidating entries that were produced and exported by Z.A. Sea Foods, B-One Business House Pvt. Ltd., Hari Marine Private Limited, Magnum Export, Megaa Moda Pvt. Ltd., Milsha Agro Exports Private Limited, Sea Foods Private Limited, Shimpo Exports Private Limited, Five Star Marine Exports Private Limited, HN Indigos Private Limited, RSA Marines, and Zeal Aqua Limited, and were entered, or withdrawn from warehouse, for consumption on or after February 1, 2018, up to and including January 31, 2019. These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

In the event that the CIT's final judgment is not appealed or, if appealed, is upheld by a final and conclusive court decision, Commerce will instruct CBP to assess antidumping duties on unliquidated entries of subject merchandise produced and exported by Z.A. Sea Foods, B-One Business House Pvt. Ltd., Hari Marine Private Limited, Magnum Export, Megaa Moda Pvt. Ltd., Milsha Agro Exports Private Limited, Sea Foods Private Limited, Shimpo Exports Private Limited, Five Star Marine Exports Private Limited, HN Indigos Private Limited, RSA Marines, and Zeal Aqua Limited, in accordance with 19 CFR 351.212(b). We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific *ad valorem* assessment rate is not zero or *de minimis*. Where an importer-specific *ad valorem*

assessment rate is zero or *de minimis*,<sup>9</sup> we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

Dated: December 8, 2022.

**Abdelali Elouaradia,**  
*Deputy Assistant Secretary for Enforcement and Compliance.*

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<sup>9</sup> See 19 CFR 351.106(c)(2).